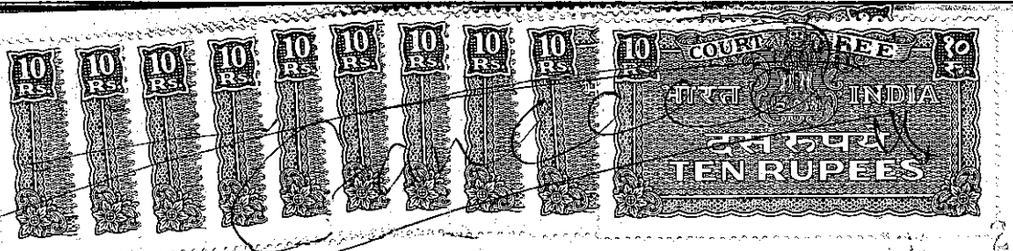

-1-

IN THE HIGH COURT OF CHHATTISGARH
AT : BILASPUR

Writ petition No.....3..... of 2000.

Petitioner : Dr. Ashoke Shukla, 60 years, son of shri Bhuwanlal shukla, Principal, Durga Mahavidyalaya, Raipur, Chhattisgarh.

VERSUS

Respondents :
1. Durga Education society, through President, Durga Mahavidyalaya, Campus, Moudhapara, Raipur, Chhattisgarh.
2. State of Chhattisgarh, through Principal Secretary, Higher Education Department, Raipur, Chhattisgarh.
3. Commissioner, Higher Education Department, Raipur, Chhattisgarh.

WRIT PETITION UNDER ARTICLES 226/227

CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : **Hon'ble Shri H.L. Dattu, CJ &**
Hon'ble Shri V.K. Shrivastava, J

WRIT PETITION NO. 3/2000

PETITIONER Dr. Ashoke Shukla

Versus

RESPONDENTS Durga Education Society & Others

Present :

Shri P.K.C. Tiwari, Sr. Advocate with Shri Shashibhushan, counsel for the petitioner.

Shri Kishore Bhaduri, counsel for respondent No.1.

Shri Prashant Mishra, Addl. Advocate General for the State/ respondents No.2 and 3.

ORAL ORDER

(Passed on 22nd February, 2007)

The following oral order of the Court was passed

H.L. Dattu, C.J.

In this petition filed under Article 226/227 of the Constitution of India, petitioner, who was working as a Principal in Durga Mahavidyayalya, Raipur, has called in question the correctness or otherwise of the communication issued to him by the respondents on 30-10-2000.

2) The relief sought in the writ petition is to quash the impugned order Annexure-P/5 and further permit him to perform his duties till he attains the age of 62 years.

45

3) During pendency of the petition, petitioner continued to work as a Principal in the respondent College and he retired from service only after attaining the age of 62 years.

4) Since the petitioner is now retired from service after attaining the age of superannuation, the relief sought for by the petitioner would not survive for consideration of this Court.

5) Shri Tiwari, learned counsel appearing for the petitioner would submit that the petitioner is entitled for the salary during the period he was prevented from discharging the duties as a Principal in the respondent College.

6) Per contra, learned counsel appearing for the respondents would submit that the petitioner in this writ petition has not prayed for the aforesaid relief.

7) In our view, in view of the efflux of time, the relief sought for by the petitioner would not survive for consideration of this Court, therefore, the petition requires to be disposed of as having become infructuous. However, liberty requires to be granted to the petitioner to approach the respondent authorities for payment of salary during the period he worked in the respondent College. Accordingly, the following :

Order

(i) The petition is disposed of as having become infructuous. However, liberty is reserved to the petitioner to make an appropriate representation before the first respondent for payment of salary during the period he was prevented from discharging his functions as a Principal of the Institution.

46

(ii) If and when such a representation is made, the first respondent is directed to consider the same and pass appropriate orders in accordance with law after affording an opportunity of hearing to the petitioner.

(iii) Ordered accordingly.

Sd/-
Vijay Kumar Shrivastava
Judge

Sd/-
Chief Justice